IN THE HIGH COURT OF JUDICATURE,

ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 24909 of 2004

Between:

1. M/s. Omnitrode Aditya Electrodes Private limited,

   (a Company incorporated under the Companies Act, 1956), 115-B, Sri Venkateswara Co-operative Industrial Estate, Bollaram, Medak District.

2. Sri P. Vasu Babu, S/o. Sri P.R. Paruchuri, Hindu,

   R/o. Jubilee Hills, Hyderabad.

..... PETITIONERS

AND

1. The Commissioner of Customs & Central Excise, Commissionerate, L.B. Stadium Road, Bashirbagh, Hyderabad. Andhra Pradesh.

2. The Assistant Commissioner (ARC), Customs & Central Excise, L.B. Stadium Road, Bashirbagh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of a writ of Mandamus declaring the action of the 2nd respondent in passing the order or attachment of the properties of the

petitioner while the matter is pending in the Hon'ble Supreme Court as Arbitrary, illegal and unsustainable and to pass such other order or orders.

Counsel for the Petitioners: MR.V.RAJAGOPAL REDDY.

Counsel for the Respondents: MR.ARAJASHEKAR REDDY (SC FOR CG).

The Court at the stage of admission made the following :

THE HON'BLE SRI JUSTICE M.H.S.ANSARI

AND

THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

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W.P.NO.24909 OF 2004

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ORAL JUDGMENT:

(Per the Hon'ble Sri Justice Ansari)

From the relief, as prayed for in the instant writ petition, it is obvious that the impugned order of attachment is for recovery of State dues. It is further apparent that against the dismissal of the appeal filed by the petitioners before the learned Central Excise and Gold Control Appeal Tribunal (CGAT), the petitioners carried the matter to the Supreme Court by way of civil appeal and it appears that 'notice' has been ordered in the said civil appeal as also on the application for condonation of delay.

As the Superior Forum, being the Appellate Forum, has been approached by the petitioners, it is neither proper nor prudent for this Court to consider the instant writ petition with regard to the relief as prayed for.

Accordingly, the writ petition is dismissed at admission stage with liberty to the petitioners to seek such appropriate reliefs as they may be entitled to, in accordance with law, before appropriate forum as it may be advised.

M.H.S.Ansari, J

T.Ch.Surya Rao, J

18th January, 2005.

mrk

To

1. The Commissioner of Customs & Central Excise, Commissionerate, L.B. Stadium Road, Bashirbagh, Hyderabad. Andhra Pradesh.

2. The Assistant Commissioner (ARC), Customs & Central Excise, L.B. Stadium Road, Bashirbagh, Hyderabad.

3. Two CD copies.